

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Donaghy	Team: Squad #14	CCRB Case #: 202001952	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/25/2020 8:50 PM	Location of Incident: § 87(2)(b)	Precinct: 06	18 Mo. SOL 8/25/2021	EO SOL 4/11/2022	
Date/Time CV Reported Tue, 02/25/2020 9:01 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/09/2020 9:13 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jamal Moya	20924	958958	073 PCT
2. SGT Joseph Algerio	4775	944312	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathan Dones	27390	948203	006 PCT
2. POF Malika Grant	28544	964027	006 PCT
3. POM James Weik	26601	967389	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jamal Moya	Force: Police Officer Jamal Moya hit § 87(2)(b) against a wheelchair.	§ 87(2)(b)
B.POM Jamal Moya	Force: Police Officer Jamal Moya hit § 87(2)(b) against the ground.	§ 87(2)(b)
C.POM Jamal Moya	Abuse: Police Officer Jamal Moya refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
D.POM Jamal Moya	Abuse: Police Officer Jamal Moya refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E.SGT Joseph Algerio	Abuse: Sergeant Joseph Algerio threatened to arrest § 87(2)(b)	§ 87(2)(b)

## Case Summary

On February 25, 2020, § 87(2)(b) called 911 and was connected to IAB, where he filed the following complaint. On March 9, 2020, this complaint was received at the CCRB.

On February 25, 2020, at approximately 8:50 p.m., § 87(2)(b) was inside the § 87(2)(b) emergency room, located at § 87(2)(b) in Manhattan, when he had an altercation with hospital security guard § 87(2)(b). PO Jamal Moye of the 73<sup>rd</sup> Precinct, who was on a paid detail at § 87(2)(b) approached § 87(2)(b) and told § 87(2)(b) to leave § 87(2)(b). Together, PO Moye and § 87(2)(b) bodily lifted § 87(2)(b) and allegedly dropped him into a wheelchair, causing § 87(2)(b) to hit his chin (**Allegation A: Force – § 87(2)(g)**). PO Moye and § 87(2)(b) were joined by § 87(2)(b) another § 87(2)(b) security guard, as they wheeled § 87(2)(b) outside § 87(2)(b). There PO Moye, § 87(2)(b) and § 87(2)(b) lifted § 87(2)(b) out of the wheelchair and allegedly dropped him to the ground, and PO Moye allegedly slammed § 87(2)(b)'s head into concrete (**Allegation B: Force – § 87(2)(g)**).

Multiple officers from the 6<sup>th</sup> Precinct, including SGT Joseph Algerio, responded to 911 calls made by § 87(2)(b) and by hospital security. § 87(2)(b) asked for PO Moye's shield number and name, but PO Moye did not provide them to § 87(2)(b) (**Allegation C: Abuse of Authority – § 87(2)(g)**) (**Allegation D: Abuse of Authority – § 87(2)(g)**). SGT Algerio told § 87(2)(b) that he was trespassing, and that if he did not leave the grounds of § 87(2)(b) he would be arrested (**Allegation E: Abuse of Authority – § 87(2)(g)**). § 87(2)(b) then left the scene.

No arrests or summonses resulted from this incident.

The CCRB obtained BWC footage of this incident from PO Jonathan Dones (Board Review 01), PO Malika Grant (Board Review 02), SGT Algerio (Board Review 03) (Board Review 04), and PO James Weik (Board Review 05), the relevant aspects of which are discussed in further detail below.

## Findings and Recommendations

**Allegation (A) Force: Police Officer Jamal Moye hit § 87(2)(b) against a wheelchair.**

**Allegation (B) Force: Police Officer Jamal Moye hit § 87(2)(b) against the ground.**

It is undisputed that § 87(2)(b) was physically removed by PO Moye, § 87(2)(b) and § 87(2)(b) from § 87(2)(b).

During his April 2, 2020, CCRB interview (Board Review 08), § 87(2)(b) stated that he went to § 87(2)(b) due to back and leg pain. While in the emergency room, § 87(2)(b) was pushed to the ground by § 87(2)(b) a security officer. PO Moye approached § 87(2)(b) who remained on the floor after being pushed, and told § 87(2)(b) that he was working for the hospital, and that § 87(2)(b) was to be removed from the hospital. § 87(2)(b) stated that he was then lifted from the ground by PO Moye and § 87(2)(b) and then allegedly dropped by the two onto a wheelchair. § 87(2)(b) landed on the wheelchair sideways, resulting in his torso hitting the arm of the wheelchair and his chin hitting the side of the wheelchair. PO Moye and § 87(2)(b) then began to push § 87(2)(b) in the wheelchair out of the hospital. However, § 87(2)(b) fell from the wheelchair and hit his head against the ground in the process. § 87(2)(b) was again lifted and placed across the wheelchair by PO Moye and § 87(2)(b) who were joined by § 87(2)(b).

PO Moye, § 87(2)(b) and § 87(2)(b) wheeled § 87(2)(b) out of the front door of § 87(2)(b) and then the three of them lifted § 87(2)(b) off the wheelchair. § 87(2)(b) was then placed onto the ground outside of § 87(2)(b) and alleged that during the process of his being placed on the ground, PO Moye slammed § 87(2)(b)'s head into the concrete ground.

Both § 87(2)(b) (Board Review 09) and § 87(2)(b) (Board Review 10) stated that § 87(2)(b) was asked to leave the emergency room for arguing with nurses and demanding medication,

and that PO Moye was asked to assist after § 87(2)(b) had already been told to leave by § 87(2)(b) staff. § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) fell to the ground after being asked to leave, and that only then did § 87(2)(b) complain about head and back pain and state that he was unable to move. Both § 87(2)(b) and § 87(2)(b) stated that, to remove § 87(2)(b) from the hospital, he was placed into a wheelchair. § 87(2)(b) was placed into the wheelchair in a normal seated position without either his head or his chin making contact against the side of the wheelchair, and at no point did § 87(2)(b) fall out of the wheelchair. Neither § 87(2)(b) nor § 87(2)(b) saw PO Moye slam § 87(2)(b)'s head against concrete outside of the hospital.

PO Moye stated that he was instructed by § 87(2)(b) who was acting as his supervisor during this paid detail, to remove § 87(2)(b) from § 87(2)(b). PO Moye then assisted § 87(2)(b) and § 87(2)(b) in lifting § 87(2)(b) and carrying him to the exit of § 87(2)(b). PO Moye did not recall § 87(2)(b) making forcible contact with a wheelchair at any point during this incident. PO Moye stated that he helped place § 87(2)(b) on the ground outside the hospital in accordance with the instructions he received from hospital personnel, and that § 87(2)(b) was placed on the ground gently without his head colliding with the ground.

As PO Moye was working as part of a paid detail inside of a medical facility during this incident, both of which are prohibited categories of recording as per the Patrol Guide, he did not record any BWC of this incident. It is undisputed that no other officers were on scene during PO Moye's alleged use of force.

Patrol Guide Procedure No. 221-01 (Board Review 11) states that in all circumstances any application or use of force must be reasonable under the circumstances.

Though § 87(2)(b) stated that PO Moye struck his head against the side of a wheelchair and then slammed his head against the concrete ground, statements by PO Moye, § 87(2)(b) and § 87(2)(b) were all consistent in maintaining that PO Moye did not do so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (C) Abuse of Authority: Police Officer Jamal Moye refused to provide his shield number to § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Jamal Moye refused to provide his name to § 87(2)(b)**

BWC footage of this incident recorded by PO Grant (Board Review 02) captured repeated requests for PO Moye's name and shield number by § 87(2)(b). Beginning at timecode 4:42, as § 87(2)(b) is lying on the ground outside of § 87(2)(b), § 87(2)(b) states to PO Moye, "I need his name and badge number." § 87(2)(b) then repeatedly asks for PO Moye's shield number until timecode 5:18, when PO Moye walks towards § 87(2)(b). At timecode 5:40, § 87(2)(b) states that he cannot see PO Moye's name and shield number on his uniform, at which point PO Moye turns away from § 87(2)(b) and walks back towards the front door of § 87(2)(b). At no time does PO Moye verbally provide either his name or shield number to § 87(2)(b).

During PO Moye's CCRB interview, he was not able to independently recall if he was ever asked for his name or shield number during this incident, and he further did not recall ever verbally providing his name or shield number to § 87(2)(b). PO Moye was presented with PO Grant's BWC footage and stated that he did not actively attempt to hide his shield number. PO Moye also reiterated that he did not recall providing his name and shield number to § 87(2)(b) at any point during this incident.

Patrol Guide Procedure No. 203-09 (Board Review 12) requires that officer courteously and clearly state their name and shield number to anyone who requests they do so.

BWC footage captured § 87(2)(b) repeatedly request PO Moye's name and shield number. Despite these repeated requests, and § 87(2)(b) statement that he could not see PO Moye's shield, at no point did PO Moye verbally provide his name or shield number. § 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Sergeant Joseph Algerio threatened to arrest § 87(2)(b)**

§ 87(2)(b) stated that, as he laid on the ground outside of § 87(2)(b) he was approached by SGT Algerio, who said, “If you don’t get up, I’m going to arrest you for trespassing.” SGT Algerio then told § 87(2)(b) that he was trespassing by being in front of the hospital, and that if he did not leave, he would be arrested.

BWC footage recorded by PO Dones (Board Review 01), captures SGT Algerio asking § 87(2)(b) if the area in front of § 87(2)(b) where § 87(2)(b) is laying, is the property of the hospital, and if § 87(2)(b) is currently trespassing at timecode 12:42. § 87(2)(b) replies affirmatively, and when SGT Algerio asks § 87(2)(b) if § 87(2)(b) should be arrested for trespassing, § 87(2)(b) states that he will call his supervisor to determine appropriate next steps. SGT Algerio steps outside as § 87(2)(b) speaks over the telephone with his supervisor, and at timecode 15:00 § 87(2)(b) states to PO Dones that his supervisor told him to have § 87(2)(b) arrested if he continued refusing to leave. At timecode 16:35, PO Dones exits the hospital and speaks with SGT Algerio, stating that § 87(2)(b) is willing to act as a complainant against § 87(2)(b). SGT Algerio then states to § 87(2)(b) that he is trespassing, and that if he does not “get up and leave,” that he will be arrested. § 87(2)(b) proceeds to roll down the entrance ramp of § 87(2)(b) leaving the hospital grounds, at which point officers leave the scene.

New York State Penal Law, Part 3, Title I, Article 140.00-140.05 (Board Review 13) defines trespass, a violation in New York State, as when an individual knowingly enters or remains unlawfully in or upon premises. A person enters or remains unlawfully upon such premises at the time that a lawful order not to enter or remain is personally communicated to them by the owner of the premises or another authorized individual.

It is undisputed that § 87(2)(b) was told by hospital employees and NYPD officers that he was not allowed to remain on the premises of § 87(2)(b). Further, BWC video shows that SGT Algerio confirmed that § 87(2)(b) was still on § 87(2)(b) property in violation of the wishes of hospital security before he told § 87(2)(b) that he was trespassing and could be arrested, § 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
  - § 87(2)(b)
- PO Moye has been a member of service for five years and has been a subject in six CCRB complaints and fourteen allegations, of which one was substantiated:
  - 201908912 involved substantiated allegations of entry of premises against PO Moye. The Board recommended command level instruction and the NYPD has not yet imposed discipline.

- § 87(2)(g) [REDACTED]
- SGT Algerio has been a member of service for thirteen years and has been a subject in fourteen CCRB complaints and twenty-seven allegations, none of which were substantiated. § 87(2)(g) [REDACTED]

### Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York seeking \$24,900 in damages (Board Review 15).
- § 87(2)(b) [REDACTED]

Squad No.: 14

Investigator: <u>Matthew Donaghy</u>	<u>Inv. Matthew Donaghy</u>	<u>April 22, 2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Cassandra Fenkel</u>	<u>IM Cassandra Fenkel</u>	<u>April 22, 2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date